

Intervener, Daniel A. Berger, (hereinafter “Mr. Berger”) by and through his counsel, Gordin & Berger, P.C., files this Motion to Intervene pursuant to Rule 24 as a qualified elector and registered voter with standing and states as follows:

2. The verified complaint for declaratory and injunctive relief that was filed by the plaintiffs in this case seeks relief that directly and adversely impacts Mr. Berger's rights as a qualified elector and registered voter and accordingly, Mr. Berger requests permission from this Court to Intervene.

3. Specifically, in Plaintiffs' prayer for relief, Plaintiffs requested at paragraph (i):

“An order declaration, and/or injunction that prohibits the Defendant County Boards of Elections and Defendant Secretary Boockvar from certifying the results of the 2020 General Election in Pennsylvania on a Commonwealth-wide basis;” (ECF Doc No. 1).

4. As a qualified registered elector that cast a lawful vote in Philadelphia County, were this Court to grant the Plaintiffs' requested relief, Mr. Berger would be exposed to immediate and irreparable harm by substantially increasing the likelihood that the Commonwealth of Pennsylvania would not timely certify the election results based on the actual votes, including the vote of Mr. Berger, and instead that the slate of electors would be determined by Congress, and accordingly, Mr. Berger respectfully requests permission of this Court to Intervene and file an opposition to the emergent request for injunctive relief.

5. Additionally, in Plaintiffs' prayer for relief, Plaintiffs also requested at paragraph (ii):

“As an alternative to the first request for relief, an order, declaration, and/or injunction that prohibits Defendants from certifying the results of the General Elections which include the tabulation of absentee and mail-in ballots for which Plaintiffs' watchers were prevented from observing during the pre-canvass and canvass in the County Election Boards;” (ECF Doc. No. 1)

6. As a qualified registered elector that cast a lawful absentee and/or mail-in ballot in Philadelphia County, were this Court to grant the Plaintiff's requested relief, there is a substantial likelihood that Mr. Berger would be exposed to immediate and irreparable harm by disqualifying his vote from being counted simply because Plaintiffs watchers were unable to observe the canvassing of his vote, and accordingly, Mr. Berger respectfully requests permission of this Court to Intervene and file an opposition to the emergent request for injunctive relief.

7. Attached hereto is a proposed opposition to the emergent request for injunctive relief. As set forth therein, the basis for this opposition is that the motion for emergency injunctive relief should be denied where it is very likely to be found to be completely without merit, where this Court lacks subject matter jurisdiction over the instant controversy.

8. Finally, Intervener further requests permission to Intervene in the action where his interests, though similar to the other named Defendants, as a private individual are separate and distinct and so that Intervener may investigate and pursue any and all available counterclaims to be filed on after the emergency motion is disposed of.

WHEREFORE, Intervener respectfully requests that this Honorable Court grant the Motion and issued an order in the form attached to this Motion.

Respectfully Submitted,

Gordin & Berger, P.C.

By: /s/ Daniel A. Berger
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